



State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

File NR CS3-28684
WR Doc ID 4673057

Added or Changed Point of Withdrawal/Diversion

PRIORITY DATE
August 25, 1989

WATER RIGHT NUMBER
S3-28684

MAILING ADDRESS
BONNEVILLE POWER ADMINISTRATION
P.O. BOX 3621 - TERS-3
PORTLAND, OR 97208-3621

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
10	CFS	1

Purpose

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Fish propagation	10	---	CFS	1	---	01/01 - 12/31

Source Limitations

SOURCE	DIVERSION RATE	PERIOD OF USE (mm/dd)
SHERMAN CREEK	9	01/01 - 12/31
COLUMBIA RIVER	1	01/01 - 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
FERRY	SHERMAN CREEK	COLUMBIA RIVER	58-MIDDLE LAKE ROOSEVELT
FERRY	COLUMBIA RIVER	PACIFIC OCEAN	58-MIDDLE LAKE ROOSEVELT

SOURCE	PARCEL	TWP	RNG	SEC	QQ	LATITUDE	LONGITUDE
SHERMAN CREEK	Not available	36N	37E	27	SE¼SW¼	48.58349°N	118.14102°W
COLUMBIA RIVER	Not available	36N	37E	27	SW¼SE¼	48.58570°N	118.13533°W

Datum: WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

73627120002000

REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Washington Dept. of Fish and Game: A tract of land for the Sherman Creek Fish Hatchery Site in Government Lot 4 and Government Lot 8 (Victor Marchand I.A.) in Section 27, Township 36 North, Range 37 E.W.M. in Ferry County, Washington, more particularly described with reference to the Washington Coordinate System, North Zone, as follows:

Beginning at a 2½-inch USBR brass cap in the east line of said Government Lot 4, which is also a point in the Bureau of Reclamation Taking Line and bears N. 0°51'36" E., 421.12 feet from the south quarter corner of said Section 27; evidenced by a burnt stump and 2 BTs; thence S. 81°45'35" W., 50.10 feet along said Taking Line; thence N. 46°25'45" W., 329.18 feet; thence leaving said Taking Line N. 30°11'25" E., 172.20 feet; thence N. 73°43'30" E., 1084.35 feet; thence S. 19°50'16" E., 249.81 feet to a 1-inch rebar in said Taking Line; thence S. 43°30'54" W., 485.40 feet along said Taking Line to a 1¼ by 1¼-inch iron bar; thence S. 81°45'35" W., 596.12 feet to the point of beginning.

Tract SCFH-FSH-1 contains 10.94 acres, more or less.

Bonneville Power Administration: A tract of land for the Sherman Creek Fish Hatchery Site in Government Lot 4, Government Lot 8 (Victor Marchand I.A.), and Government Lot 9 (part of Frank Marchand I.A.) of Section 27, and Government Lot 1, and Government Lot 7 (part of Frank Marchand I.A.) of Section 34, all in Township 36 North, Range 37 E.W.M. in Ferry County, Washington, being more particularly described with reference to the Washington Coordinate System, North Zone, as follows:

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Tract SCFH-FSH-2 contains 9.06 acres, more or less.

Proposed Works

Fish hatchery, 3 concrete raceways, 2 submersible pumps

Development Schedule**BEGIN PROJECT**

Begun

COMPLETE PROJECT

December 1, 2013

PUT WATER TO FULL USE

December 1, 2014

Measurement of Water Use

How often must water use be measured?	Weekly
How often must data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

Provisions

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173 , which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Eastern Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Eastern Regional Office for forms to submit your water use data.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore

will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S3-28684, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this day of 2012.

Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Gene Drury, Department of Ecology

Water Right Control Number CS3-28684

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS3-28684.

EXISTING Water Right Attributes

Water Right Owner:	Bonneville Power Administration
Priority Date:	August 25, 1989
Place of Use	<p>Washington Dept. of Fish and Game: A tract of land for the Sherman Creek Fish Hatchery Site in Government Lot 4 and Government Lot 8 (Victor Marchand I.A.) in Section 27, Township 36 North, Range 37 E.W.M. in Ferry County, Washington, more particularly described with reference to the Washington Coordinate System, North Zone, as follows:</p> <p>Beginning at a 2½-inch USBR brass cap in the east line of said Government Lot 4, which is also a point in the Bureau of Reclamation Taking Line and bears N. 0°51'36" E., 421.12 feet from the south quarter corner of said Section 27; evidenced by a burnt stump and 2 BTs; thence S. 81°45'35" W., 50.10 feet along said Taking Line; thence N. 46°25'45" W., 329.18 feet; thence leaving said Taking Line N. 30°11'25" E., 172.20 feet; thence N. 73°43'30" E., 1084.35 feet; thence S. 19°50'16" E., 249.81 feet to a 1-inch rebar in said Taking Line; thence S. 43°30'54" W., 485.40 feet along said Taking Line to a 1¼ by 1¼-inch iron bar; thence S. 81°45'35" W., 596.12 feet to the point of beginning.</p>

Tract SCFH-FSH-1 contains 10.94 acres, more or less.

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Tract SCFH-FSH-2 contains 9.06 acres, more or less.

County	Waterbody	Tributary To	WRIA
Ferry	Sherman Creek	Columbia River	58-Middle Lake Roosevelt

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Fish propagation	10	CFS	1	01/01	12/31

Source Name	Parcel	Twp	Rng	Sec	QQ	Latitude	Longitude
Sherman Creek	Not available	36N	37E	27	SE¼SW¼	48.58349°N	118.14102°W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Bonneville Power Administration
Date of Application:	March 5, 2010
Place of Use	No Change - See Permit

County	Waterbody	Tributary To	WRIA
Ferry	Columbia River	Pacific Ocean	58-Middle Lake Roosevelt
Ferry	Sherman Creek	Columbia River	58-Middle Lake Roosevelt

Purpose	Rate	Unit	Acre-feet/yr	Begin Season	End Season
Fish propagation	10	CFS	1	01/01	12/31

Source Name	Parcel	Twp	Rng	Sec	QQ	Latitude	Longitude
Sherman Creek	Not available	36N	37E	27	SE¼SW¼	48.58349°N	118.14102°W
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Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Republic News Miner on August 23 and 30, 2012. No protests were received.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute;
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;

- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application would entail the diversion of more than 1 cubic foot per second of surface water, it is subject to SEPA.

After review of a completed environmental checklist and other information on file with Ecology, this proposal was determined to not have a significant adverse impact on the environment. A final Determination of Non-Significance was issued by Ecology on November 5, 2012, stating that no environmental impact statement is required.

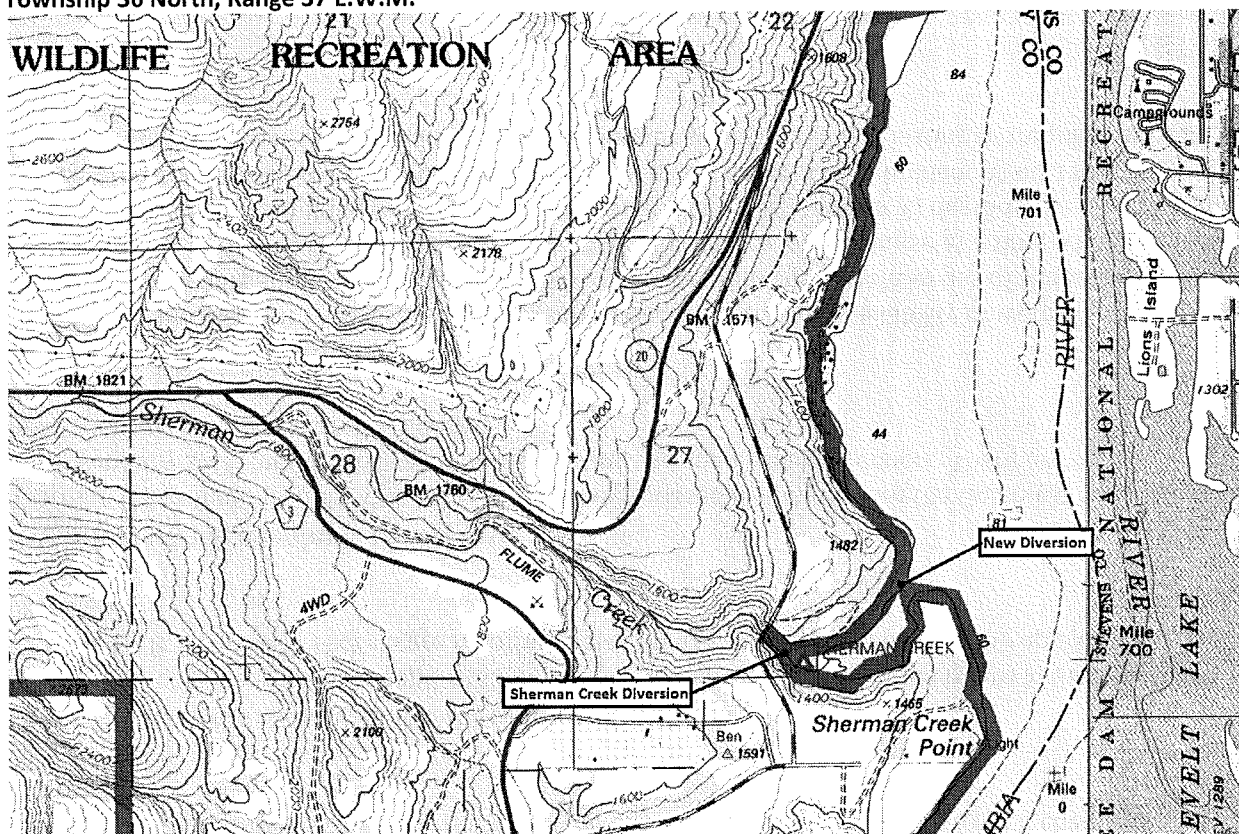
INVESTIGATION

A field examination was conducted on September 19, 2012 by Gene Drury with Mitch Combs, Sherman Creek Fish Hatchery Manager. This project is located approximately 3 miles west of Kettle Falls, Washington and 101 miles upstream from Grand Coulee Dam on the west bank of the Columbia River at the mouth of Sherman Creek in Ferry County, Washington.

The original permit for this project was issued by the Department on August 5, 1996. The Sherman Creek Hatchery was constructed in 1991 by the Bonneville Power Administration (BPA) and became operational in April 1992. It is operated by the Washington Department of Fish and Wildlife (WDFW). The hatchery is one of two facilities provided to partially mitigate for loss of anadromous fish habitat due to the construction of Grand Coulee Dam. The hatcheries were initiated in part by the Northwest Power Planning Council's Columbia River Basin Fish and Wildlife Program. The Sherman Creek Hatchery currently raises rainbow trout, kokanee and white sturgeon.

The hatchery diverts water from two water sources, Sherman Creek and the Columbia River. The hatchery has been diverting water from the Columbia River under short term authorizations from the Department of Ecology. The Hatchery proposes to make this diversion permanent to the water right permit. The Sherman Creek diversion is gravity fed and consists of three concrete raceways. Each raceway contains a weir for water measurement. The Columbia River diversion currently consists of two 5 horsepower pumps. Larger pumps may be installed but will not divert more than 1 cfs. This new diversion will be required to be metered. No more than 10 cfs would be diverted from both Sherman Creek and the Columbia River.

Township 36 North, Range 37 E.W.M.



USGS 7.5 Minute (Topographic Map) - "Bangs Mtn"

Measurement from the three raceways were provided by Mitch Combs of WDFW for 2011 and 2012. The records for these two years are as follows:

Sherman Creek Hatchery - Sherman Creek Raceway Intake
Operational March - December 2011

Date	Operation	RW1	RW2	RW3	Overflow	Total gpm	CFS
4/11/11	Flows	1315	1315		408	3038	6.769162
5/1/11	Flows	1315	1315		408	3038	6.769162
6/1/11	Flows	1764	1764		408	3936	8.770053
6/9/11	retrofit	1203			408	1611	3.589572
7/10/11	Flows	1203	1091	1203		3497	7.791889
8/1/11	Flows	1203	1203	1203	264	3873	8.629679
9/10/11	Flows	1203	1091	1315	264	3873	8.629679
10/1/11	Flows	1203	1203	1203	264	3873	8.629679
10/21/11	retrofit	1203			408	1611	3.589572
11/30/11	off					0	0

Sherman Creek Hatchery - Sherman Creek Raceway Intake
Operational March - December 2012

Date	Operation	RW1	RW2	RW3	Overflow	Total gpm	CFS
4/10/12	Flows	1315	1315		264	2894	6.448307
4/17/12	Flows	1203	1315	1203	264	3985	8.879234
5/1/12	Flows	1203	1203	1203	264	3873	8.629679
6/1/12	Flows	1203	1203	1203	264	3873	8.629679
6/11/12	retrofit	1203			408	1611	3.589572
7/11/12	Flows	1203	1203			2406	5.360963
7/19/12	Flows	1203	1203	1203	264	3873	8.629679
8/1/12	Flows	1203	1203	1203	264	3873	8.629679
9/1/12	Flows	880	1140	1140	264	3424	7.629234
9/16/12	Flows	1140	1140	1140	264	3684	8.208556
9/26/12	Flows					0	0

Proposed Use

The proposal by BPA/WDFW is to add one point of diversion to the existing 10 cfs permit from Sherman Creek. The new diversion would be an intake on the Columbia River located downstream approximately 1,500 feet from the existing Sherman Creek intake. The additional intake is located at the mouth of Sherman Creek where it empties into the Columbia River and will complement the fish propagation activities. The proposed change will not affect the amount of water diverted nor will it change the way it is used.

Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water rights, permits, and claims in the S½ of Sec. 27, T. 36 N., R. 37 E.W.M. There were no other water rights found appurtenant to the applicant's property.

Hydrologic/Hydrogeologic Evaluation

Sherman Creek flows into the Columbia River. The proposed diversion from the Columbia River is approximately 1500 feet downstream of the existing Sherman Creek diversion. There are no hydrogeologic concerns with this change.

Impairment Considerations

"Impair" or "impairment" means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200), and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

No water is authorized to be diverted above what has been historically used, and it is not anticipated that the proposed change would cause impairment to existing water rights.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

It is the conclusion of this examiner that, in accordance with Chapters 90.03, this application to add one point of diversion, as granted under Surface Water Permit No. S3-28684P will not enlarge the quantity of water historically used nor will it impair existing rights provided the recommendations are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

Purpose of Use:

Continuous Fish Propagation

Source:

Sherman Creek and Columbia River

Quantities:

10 cubic feet per second (9 cfs from Sherman Creek; 1 cfs from Columbia River)

Points of Diversion:

Sherman Creek: SE¼SW¼ (Government Lot 4), Section 27, Township 36 North, Range 37 E.W.M.

Columbia River: SW¼SE¼, Section 27, Township 36 North, Range 37 E.W.M.

1 acre-foot per year (for evaporation losses and fish transportation)

Place of Use:

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As described on Page 1 of this Report of Examination.

Gene Drury, Report Writer

Date

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.